In the High Court of Punjab and Haryana at Chandigarh

RSA No. 3116 of 2007 (O&M)
Date of Decision: 20.09.2007

State of Haryana and others

…Appellants

Versus

Krishan Lal and others

….Respondent

Present : Mr.Amit Kaushik, AAG, Haryana.

Vinod K.Sharma, J.(Oral)

C.M.No.8705 C of 2007

For the reasons mentioned in the application, delay of 97 days in filing the appeal is condoned. C.M. stands disposed of.

RSA No.3116 of 2007

This Regular Second Appeal has been filed against the judgment dated 12.5.2006 passed by the learned trial Court vide which suit filed by the plaintiff-respondents for declaration and permanent injunction was ordered to be decreed and the judgment dated 22.1.2002 passed by the learned lower Appellate Court vide which appeal filed by the appellants was dismissed.

The plaintiff-respondents filed a suit for declaration and permanent injunction on the plea that they were bona fide purchasers for consideration. The said allotment was subsequently cancelled by the Chief Settlement Commissioner and on the said basis, it was claimed that the respondents were entitled to get back the possession. The plaintiff-respondents challenged the said action of the respondents on the plea that

their possession is to be protected under Section 41 of the Transfer of Property Act as they were the bona fide purchasers for consideration as the allottee was shown to be owner of the property and entries regarding ownership were duly entered in the revenue record. The property was purchased by plaintiff after due verification of the title. The said suit was contested on the ground, that the plea, of bona fide purchasers for consideration was not available to the plaintiff, as the protection under Section 41 of the Transfer of Property Act was not available in case of evacuee property. The stand of the State was that Section 4 of the Administration of Evacuee Property Act has overriding effect on any other laws. However, this plea of the appellant has been rejected in view of the law laid down by this Court in the case of **Kali Ram and others vs. Union of India, 1996 PLR 475**.

The finding recording by the learned trial Court has been affirmed by the learned lower Appellate Court. Both the Courts have recorded a concurrent finding of fact that the plaintiff-respondents were bona purchaser for consideration and entitled to protection under Section 41 of the Transfer of Property Act. There is no ground to interfere in the impugned judgments and decrees of the learned Courts below.

Dismissed

[**Vinod K.Sharma**]

Judge

20.9.2007

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